

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA :	:	CRIMINAL NO.
v.	:	DATE FILED:
JAMES RISNER	:	VIOLATIONS:
RONALD CHECK, JR.	:	18 U.S.C. § 371 (conspiracy - 2 counts)
JAMES VAGRA	:	26 U.S.C. § 7206 (filing false
GARY SANDERS	:	tax return - 1 count)

INFORMATION

COUNT ONE

THE UNITED STATES ATTORNEY CHARGES THAT:

At times material to this information:

A. THE BERKLEY PRODUCTS SUPERFUND SITE

1. The United States Superfund Program (Superfund) was created by Congress to clean and restore abandoned or uncontrolled hazardous waste sites in order to protect citizens from the dangers posed by these sites.

2. The Berkley Products Company Dump Site (Berkley Products site), located in Denver, Lancaster County, Pennsylvania, was designated as a Superfund hazardous waste clean up site by the Environmental Protection Agency (EPA), an agency of the United States.

3. On or about September 30, 1996, Tetra Tech Nus, Inc. (Tetra Tech) was awarded a contract by the EPA to serve as prime contractor to provide architectural and engineering services to

support remedial planning and oversight activities in the clean up of Superfund hazardous waste sites in EPA Region III, which includes Lancaster County and the Berkley Products site. Pursuant to the prime contract, Tetra Tech was contracted by the EPA to perform site management and the issuing and managing of subcontracts for construction at designated Superfund sites.

4. Pursuant to its contract with EPA, Tetra Tech was issued a work assignment by the EPA for the clean up of the Berkley Products site.

5. On or about April 7, 2000, Tetra Tech subcontracted the construction work associated with the clean up of the Berkley Products site to Grace Industries, Inc., located at 6993 Silvercrest Road, Nazareth, Northampton County, Pennsylvania. The Grace Industries subcontract was approximately a \$2,676,548 firm fixed price contract. Under the contract, Grace Industries was responsible for the construction of a landfill cap at the Berkley Products site, which included backfill excavation, clearing, and reforestation.

6. Between in or about May 2000 and in or about December 2001, Grace Industries performed services at the Berkley Products site as provided for under the terms of the subcontract.

7. During the performance of its work at the Berkley Products site, Grace Industries submitted change orders to Tetra Tech for authorization to perform additional work not covered by the original subcontract. The change orders, once approved, permitted Grace Industries to receive compensation in addition to that provided for in its initial subcontract with Tetra Tech.

8. Between on or about August 22, 2000 and on or about April 2, 2002, Grace Industries received from Tetra Tech approximately \$6,036,495 for services provided at the Berkley Products site. Of this amount, approximately \$1.38 million was for work performed pursuant to change orders submitted by Grace Industries to Tetra Tech for approval.

B. THE DEFENDANTS

9. Defendant JAMES RISNER was an employee and agent of the prime contractor, Tetra Tech. Defendant RISNER acted as project manager for Tetra Tech at the Berkley Products site and was responsible for overseeing the clean up of the site and supervising the work performed at the site by Grace Industries. It was the responsibility of defendant RISNER to certify that contracted work performed by Grace Industries, including change orders, was completed in a satisfactory manner by Grace Industries before Tetra Tech authorized payments to Grace Industries.

10. Defendant RONALD CHECK, JR. was the president of Grace Industries.

11. Defendant JAMES VAGRA was an employee of Grace Industries and acted as Grace Industries' project manager at the Berkley Products site.

12. Defendant GARY SANDERS was an employee of Grace Industries and acted as Grace Industries' site foreman at the Berkley Products site.

13. Between in or about October 2000 and in or about February 2002, in Lancaster and Northampton Counties, in the Eastern District of Pennsylvania and elsewhere, defendants

**JAMES RISNER,
RONALD CHECK, JR.,
JAMES VAGRA, and
GARY SANDERS**

conspired and agreed together to commit an offense against the United States, that is, to knowingly and willfully provide and accept kickbacks, as that term is defined in Title 41, United States Code, Section 52, for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract with the United States, in violation of Title 41, United States Code, Sections 53(1), 53(2), and 54.

MANNER AND MEANS

It was a part of the conspiracy that:

14. Defendant JAMES RISNER solicited the payment of kickbacks from Grace Industries and defendants RONALD CHECK, JR. and JAMES VAGRA in exchange for defendant RISNER certifying promptly that work was performed by Grace Industries in a satisfactory manner on change orders.

15. Defendants JAMES RISNER, RONALD CHECK, JR., and JAMES VAGRA agreed that defendant RISNER would receive approximately ten percent (10%) of all money received by Grace Industries on change order work.

16. Defendants RONALD CHECK, JR. and JAMES VAGRA paid to defendant JAMES RISNER approximately ten percent of all money received by Grace Industries on change order work.

17. Defendant JAMES RISNER, in turn, kicked back to defendant JAMES VAGRA approximately one-half of all money received by defendant RISNER from Grace Industries.

18. Defendant JAMES VAGRA provided approximately one-half of all money received from defendant JAMES RISNER to defendant GARY SANDERS.

19. Defendant JAMES RISNER provided Grace Industries with phony invoices representing sales of equipment by defendant RISNER to Grace Industries, in the amount of the kickbacks, to disguise the illegal payments.

OVERT ACTS

In furtherance of the conspiracy, the defendants committed the following overt acts in the Eastern District of Pennsylvania and elsewhere:

1. In or about August 2000, defendant JAMES RISNER solicited defendant JAMES

VAGRA for the payment of kickbacks from Grace Industries for expediting and facilitating the payment for work performed on change orders.

2. In or about August 2000, defendants RONALD CHECK, JR. and JAMES VAGRA agreed to pay defendant JAMES RISNER ten percent of all money received by Grace Industries on change orders at the Berkley Products site.

3. Between on or about October 6, 2000 and on or about February 7, 2002, defendants RONALD CHECK, JR. and JAMES VAGRA paid to defendant JAMES RISNER approximately \$129,531 in kickbacks from money received by Grace Industries from Tetra Tech on change order work.

4. Between on or about October 6, 2000 and on or about February 7, 2002, defendant JAMES RISNER supplied defendants RONALD CHECK, JR. and JAMES VAGRA with phony invoices to disguise the payment and receipt of kickbacks.

5. Between on or about October 6, 2000 and on or about February 7, 2002, defendant JAMES RISNER paid to defendant JAMES VAGRA approximately \$64,765 from the kickback payments received from Grace Industries.

6. Between on or about October 6, 2000 and on or about February 7, 2002, defendant JAMES VAGRA paid to defendant GARY SANDERS approximately one half of the money that he received from defendant JAMES RISNER.

All in violation of Title 18, United States Code, Section 371.

COUNT TWO

THE UNITED STATES ATTORNEY FURTHER CHARGES THAT:

1. Paragraphs one through twelve of Count One are incorporated here.
2. Between in or about October 2000 and in or about February 2002, in Lancaster County, in the Eastern District of Pennsylvania and elsewhere, defendants

**JAMES RISNER,
RONALD CHECK, JR., and
JAMES VAGRA**

conspired and agreed together to defraud the United States by impeding, impairing, obstructing, and defeating the lawful functions of the Internal Revenue Service of the Department of the Treasury in the ascertainment, computation, assessment and collection of income taxes.

MANNER AND MEANS

It was part of the conspiracy that:

3. Defendant JAMES RISNER solicited the payment of kickbacks from Grace Industries and defendants RONALD CHECK, JR. and JAMES VAGRA.
4. Defendants JAMES RISNER, RONALD CHECK, JR., and JAMES VAGRA agreed that defendant RISNER would receive approximately ten percent (10%) of all money received by Grace Industries on change order work.
5. Defendants RONALD CHECK, JR. and JAMES VAGRA paid to defendant JAMES RISNER approximately ten percent of all money received by Grace Industries on change order work.
6. Defendant JAMES RISNER provided Grace Industries with phony invoices representing sales of equipment by defendant RISNER to Grace Industries, in the amount of the kickbacks, to disguise the illegal payments.

7. Defendant JAMES RISNER, in turn, kicked back to defendant JAMES VAGRA approximately one-half of all money received by defendant RISNER from Grace Industries.

8. Defendant JAMES VAGRA provided approximately one-half of all money received from defendant JAMES RISNER to GARY SANDERS.

9. Defendant JAMES RISNER provided Grace Industries with phony invoices representing sales of equipment by defendant RISNER to Grace Industries, in the amount of the kickbacks, to disguise the illegal payments.

10. Defendant RONALD CHECK, JR. and Grace Industries misrepresented in company financial records that the money paid in kickbacks were company expenditures for the purchase of goods, and the amount of the payments were deducted as business expenses on company tax returns.

11. Defendants JAMES RISNER and JAMES VAGRA failed to report to the Internal Revenue Service the kickback payments received.

OVERT ACTS

In furtherance of the conspiracy and to accomplish its object, the following overt acts, among others, were committed in the Eastern District of Pennsylvania and elsewhere:

1. Between on or about October 6, 2000 and on or about February 7, 2002, defendants RONALD CHECK, JR., JAMES VAGRA, and Grace Industries paid approximately \$129,531 in kickbacks to defendant JAMES RISNER.

2. Between on or about October 6, 2000 and on or about February 7, 2002, defendant JAMES RISNER supplied defendant RONALD CHECK, JR. and Grace Industries with phony invoices representing the sale of material to Grace Industries in the amount of the kickback payments.

3. Between on or about October 6, 2000 and on or about February 7, 2002, defendant JAMES RISNER paid approximately one-half of the kickback money he received from defendant RONALD CHECK, JR. and Grace Industries to defendant JAMES VAGRA.

4. On or about April 15, 2001, defendants JAMES RISNER and JAMES VAGRA prepared and filed individual federal income tax returns which omitted the income they had received from kickback payments.

5. On or about April 15, 2002, defendants JAMES RISNER and JAMES VAGRA prepared and filed individual federal income tax returns which omitted the income they had received from kickback payments.

6. On or about April 15, 2003, defendants JAMES RISNER and JAMES VAGRA prepared and filed individual federal income tax returns which omitted the income they had received from kickback payments.

7. On or about April 1, 2001, Grace Industries filed federal income tax returns which reported business deductions that included the kickback payments made to defendant JAMES RISNER.

8. On or about April 1, 2002, Grace Industries filed federal income tax returns which reported business deductions that included the kickback payments made to defendant JAMES RISNER.

9. On or about August 25, 2003, Grace Industries filed federal income tax returns which reported business deductions that included the kickback payments made to defendant JAMES RISNER.

All in violation of Title 18, United States Code, Section 371.

COUNT THREE

THE UNITED STATES ATTORNEY FURTHER CHARGES THAT:

On or about April 15, 2002, in Philadelphia, in the Eastern District of Pennsylvania,
defendant

GARY SANDERS

willfully made and subscribed a United States income tax return, Form 1040, for the calendar year 2001, which was verified by a written declaration that it was made under the penalty of perjury and filed with the Director, Internal Revenue Service Center, in Philadelphia, Pennsylvania, which defendant SANDERS did not believe to be true and correct as to every material matter, in that the return reported income for himself and his spouse of \$90,034, when in fact, as defendant SANDERS well knew, he had not included approximately \$17,178 in additional income which defendant SANDERS had received from kickback payments received while site foreman of Grace Industries at the Berkley Products Superfund site, and therefore under reported his total income.

In violation of Title 26, United States Code, Section 7206(1).

PATRICK L. MEEHAN
United States Attorney